

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA :
:
VS. : CR NO.: 04-10299-PBS
:
ANDRES MARTINEZ : August 29, 2006

MEMORANDUM IN SUPPORT OF MOTION TO RESTORE

On May 1, 2004, upon the defendants arrest certain items of a non evidentiary nature, were seized from Andrez Martinez.

No forfeiture proceedings were ever instituted against the items. Counsel has written to the government on several occasions about the return of the items, but has never even received a reply.

The items which the defendant seeks to have returned are owned by the defendant and were unlawfully seized, since they had no evidentiary value, and are sought long after the grand jury has completed its inquiry. United States v. Rodriguez-Aguirre, 264 F.3d 1195 (10th Cir. 2001); Sealed Appellant v. Sealed Appellee, 199 F.3d 276 (5th Cir. 2000).

/s/ *John F. Cicilline*

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CERTIFICATION

I hereby certify that on August 29, 2006 a true copy of the above document was served upon all attorneys of record by ECF filing.

RAQUEL GIL